

App. No. 10/071,163

PATENT  
Docket No. 58091-010400**REMARKS**

The office action issued by the Examiner and the citations referred to in the office action have been carefully considered.

Claims 1, 11, and 12 are amended with this response.

Claims 2-9 are canceled without prejudice or disclaimer.

**Claim Rejections****1. Claim 1**

The Examiner rejected Claims 1, 4, 5, 8, and 10 under 35 U.S.C. § 103(a) as being anticipated by US Publication 2001/0012204 to Sharrah et al in view of US Publication 2002/0114154 to Galli and Australian Design Patent 134908. Applicant disagrees with the Examiner and respectfully traverses the claim rejection.

The Examiner indicated in the Office Action dated November 04, 2004 that Claim 1 has not been amended, as previously suggested by the Examiner, to include all the limitations that were in Claim 6 and the intervening claims from which Claim 6 had dependency. The Examiner further indicated that such intervening claims would have included Claims 5, 4, 3 or 2. Claim 1 was previously presented to incorporate all of the limitations of Claim 2. Claim 1 is currently amended to incorporate all the elements of Claims 4 and 5. Claims 4 and 5 have been canceled.

With regards to the references cited by the Examiner, there are many features in Claim 1 as now amended that are not taught nor suggested by the combination of Sharrah in view of Galli and the Australian Design Registration 134908 (Registration '908). For example, Claim 1 refers to a grommet. Nowhere in Sharrah, Galli or Registration '908 is it suggested that a grommet be used and located relative to the body so as to ensure that the LEDs are accurately located relative to the lens. The position of the LEDs permit the emission of a relatively bright band of light in the horizontal direction through a first portion of the lens. The grommet allows for the correct positioning of the LEDs. Examiner states that Sharrah refers to as "grommet 280." However the reference 280 in Sharrah is a "lamp socket" for receiving lamp elements such as bulbs not a grommet. The lamp socket in Sharrah is not the functional equivalent of the grommet.

Furthermore, Sharrah in view of Galli and Registration '908 does not recite a bright band of light projected in the horizontal direction as in the present application. Rather, Sharrah

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teaches a regular flashlight where a conventional cylindrical or conical beam is emitted from the light source. In the present application, the first portion of the lens has a relatively smooth and convex outer surface with a degree of divergence that allows for a horizontal bright band of light.

The Examiner also states that Registration '908 is an "Australian patent" that shows a Fresnel lens with a depending finger extending down into the interior of the lens housing. The reference cited by the Examiner is not a design patent but rather a design registration. Registration '908 does not recite anywhere that a Fresnel lens is used. Therefore, Registration '908 cannot be combined to render the patent obvious.

For at least the above reasons, Claim 1 is not rendered obvious by Sharrah et al in view of Galli and Australian Design Registration 134908. Similarly, Claim 10 should additionally be considered allowable since they depend from claim 1.

## 2. Claim 11

Claims 11-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,230,560 to Lyons in view of US Patent No. 6,086,220 Lash et al. Applicant disagrees with the Examiner and respectfully traverses the Examiner's rejection.

The present application makes it clear that the LEDs are mounted relative to the lens such that the LEDs are located at the first portion. This is not taught in the cited art. In particular, Lyons in view of Lash does not teach that the Fresnel characteristics are to minimize light therethrough. Lash teaches a warning beacon where six LEDs are arranged in a star formation within the lens. Lash is silent as to the location of the LEDs within the lens.

Lyons uses reflectors to reflect the light from the light source so that the vast majority of light passes through the lens in a horizontal direction. Figure 1 of Lyons demonstrates the light passing through almost all of the surfaces of the lens with the same intensity. Therefore, Lyons in view of Lash teach directly against the requirement of the present application that the Fresnel characteristics are to minimize light therethrough.

Furthermore, Claim 11 has been amended to include the elements recited in Claims 4 and 5. Lyons in view of Lash does not teach these elements in combination or individually. It is respectfully requested that the rejection of Claim 11 be withdrawn. Similarly, the rejection of dependent Claims 12, 13, 14 and 15 should also be withdrawn.

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It is respectfully submitted that all of the Examiner's objections have been successfully traversed and that the application is now in order for allowance. Accordingly, reconsideration of the application and allowance thereof is courteously solicited.

The Director is authorized to charge \$110.00 for a two-month extension to file a response, to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to Deposit Account Number 50-2638, Deposit Account Name Greenberg Traurig, LLP. Please ensure that the Attorney Docket Number is referred to when charging any payments or credits for this case.

Respectfully submitted,



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